



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0266; FRL-9665-4]

Revisions to the California State Implementation Plan, San  
Joaquin Valley Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) from solid fuel fired boilers, steam generators and process heaters. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATE:** Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2012-0266, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental

Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available

only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Andrew Steckel, EPA Region IX, (415) 947-4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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#### **I. The State's Submittal**

- A. What rule did the State submit?

Table 1 identifies the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rule

Local Agency	Rule #	Rule Title	Amended	Submitted
SJVUAPCD	4352	Solid Fuel Fired Boilers, Steam Generators and Process Heaters	12/15/11	02/23/12

On March 13, 2012, EPA determined that the submittal for SJVUAPCD Rule 4352 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We finalized a limited approval and limited disapproval of an earlier version of Rule 4352 on October 1, 2010 (75 FR 60623). That action incorporated Rule 4352 into the California SIP, including those provisions identified as deficient.

C. What is the purpose of the submitted rule?

NOx emissions help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NOx emissions. Rule 4352 limits NOx and carbon

monoxide (CO) emissions from solid fuel fired boilers, steam generators and process heaters. EPA's technical support document (TSD) has more information about this rule.

## **II. EPA's Evaluation**

### **A. How is EPA evaluating the rule?**

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document and each major source of NOx or VOC emissions in ozone nonattainment areas classified as moderate or above (see CAA sections 182(b)(2) and 182(f)), and must not relax existing requirements (see CAA sections 110(1) and 193). Section 172(c)(1) of the Act also requires implementation of all reasonably available control measures (RACM) as expeditiously as practicable in nonattainment areas.

Because the San Joaquin Valley (SJV) area is designated nonattainment for the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) and for the 1-hour and 8-hour ozone NAAQS (see 40 CFR 81.305), the RACM requirement in CAA section 172(c)(1) applies to this area.<sup>1</sup> In

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<sup>1</sup> EPA generally takes action on a RACM demonstration as part of our action on the State's attainment demonstration for the relevant NAAQS, based on an evaluation of the control measures submitted as a whole and their overall

addition, because SJV is classified as "extreme" nonattainment for the 1-hour and 8-hour ozone NAAQS (see 40 CFR 81.305), the specific RACT requirement in CAA sections 182(b)(2) and (f) applies to all major sources of NO<sub>x</sub> or VOC in the SJV area. We are evaluating Rule 4352 for compliance with the NO<sub>x</sub> RACT requirement in CAA section 182 because the rule applies to major NO<sub>x</sub> emission sources.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) (the General Preamble) and 57 FR 18070 (April 28, 1992) (Appendices).
2. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," 57 FR 55620, November 25, 1992 (the NO<sub>x</sub> Supplement).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule

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potential to advance the applicable attainment date in the area. *See, e.g.*, 76 FR 69896 (November 9, 2011) (final rule partially approving and partially disapproving PM<sub>2.5</sub> attainment plan for SJV); 77 FR 12652 (March 1, 2012) (final rule approving 8-hour ozone attainment plan for SJV).

Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters," CARB, July 18, 1991.
  5. "Alternative Control Techniques Document-- NOx Emissions from Industrial/Commercial/Institutional (ICI) Boilers," US EPA 453/R-94-022, March 1994.
  6. "Alternative Control Techniques Document-- NOx Emissions from Utility Boilers," US EPA 452/R-93-008, March 1994.
- B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

On January 10, 2012, EPA partially approved and partially disapproved the RACT SIP submitted by California on June 18, 2009 for the SJV extreme ozone nonattainment area (2009 RACT SIP), based in part on our conclusion that the State had not fully satisfied CAA section 182 RACT requirements for solid fuel fired boiler operations. See 77 FR 1417, 1425 (January 10, 2012). Final approval of Rule 4352 would satisfy California's obligation to implement RACT under CAA section 182 for this

source category for the 1-hour ozone and 1997 8-hour ozone NAAQS and thereby terminate both the sanctions clocks and the Federal Implementation Plan (FIP) clock associated with this rule.

C. EPA recommendations to further improve the rule.

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

### **III. EPA's Proposed Action.**

Because EPA believes the submitted rule fulfills all applicable requirements and corrects all deficiencies identified in our October 1, 2010 action, we are proposing to fully approve it under section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:



- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those

requirements would be inconsistent with the Clean Air Act;  
and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,  
Intergovernmental relations, Nitrogen dioxide, Ozone,  
Particulate matter, Reporting and recordkeeping requirements.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: April 13, 2012

Jared Blumenfeld,  
Regional Administrator,  
Region IX.

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